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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

8 James Arnett,

9 Plaintiff,

10 vs.

11 Benjamin Snow Howard, et al.,

12 Defendants.
13
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No. CV-12-0311-TUC-DTF

MOTION

15
16 Pursuant to Federal Rule of Civil Procedure 4(c)3, Plaintiff James
17 Arnett ("Plaintiff Arnett"), Pro Se, In Forma Pauperis, hereby moves that
18 Service of Process to Defendant Benjamin Snow Howard, et al ("Defendant
19 Howard"), be performed by the United States Marshal Service, as authorized
20 under 28USC§1915, on the following grounds.

21
22 **Factual And Procedural History**

23 On 24 April 2012, Plaintiff Arnett opened and filed a Complaint, assigned
24 Civil Case number CIV12-311 TUCDTF, in the United States District Court
25 For The District Of Arizona, against Defendant Howard, et al.

26
27 Later on 24 April 2012, Plaintiff Arnett mailed the Waiver, pursuant to
28 Federal Rule of Civil Procedure 4(d), to the residence of Defendant Howard at:

1 3580 N. 2225 E., Layton, Utah 84040, via USPS Express Mail, tracking number
2 EI525489566US.

3
4 On 25 April 2012, the USPS online tracking system reported the Waiver as
5 delivered to Defendant Howard's residence.

6
7 As of 29 May 2012, Defendant Howard had failed to return the signed Waiver, nor
8 has he ever communicated any intent to do so.

9
10 Later on 29 May 2012, with the 30 day requirement for the Waiver exhausted, the
11 Court Clerk signed and sealed the Summons for Plaintiff Arnett, pursuant to Federal Rule
12 of Civil Procedure 4(b).

13
14 And later on 29 May 2012, Plaintiff Arnett mailed the Summons to the residence of
15 Defendant Howard at: 3580 N. 2225 E., Layton, Utah 84040, via USPS Certified Priority
16 Mail, tracking number 70113500000338724914.

17
18 On 31 May 2012, the USPS online tracking system reported a failed attempt to
19 deliver the Summons. The USPS Mail Carrier left an official USPS Notice at Defendant
20 Howard's residence.

21
22 On 4 June 2012, the USPS online tracking system reported that Defendant Howard
23 had failed to pick up the Summons at the Layton, Utah USPS Office.

24
25 Later on 4 June 2012, Plaintiff Arnett made telephone contact with the Layton, Utah
26 USPS Office, in order to effect another attempt for delivery. He learned that USPS policy
27 for Certified Mail consisted of the following policy driven Procedure:

1 Only one attempt is made by the USPS Mail Carrier to deliver, which was effected
2 on 31 May 2012, followed by leaving an official Notification at the delivery address for
3 the recipient to claim the Certified Mail at the USPS Office issuing the Notification,
4 effected on the same date. Two weeks following that Notification, a second Notification
5 shall be left. One week later, if the recipient does not go to the issuing USPS Office to pick
6 up their Certified Priority Mail, the USPS Office shall return the Certified Priority Mail to
7 the sender, after a total of a four week procedure.

8
9 As of 7 June 2012, eight days following delivery of the Summons, and 30 days
10 following the delivery of the Waiver without response, Plaintiff asserts that after a total of
11 five weeks of ignoring the Waiver and Process of the Court, Defendant Howard's intent to
12 avoid Service has become manifest, demonstrated by his dismissal of these documents
13 without response.

14 15 **Summary**

16 The efforts detailed above hereby exhaust the means available to Plaintiff Arnett for
17 proper Service of Process to Defendant Howard in the State of Utah.

18
19 Therefore Plaintiff moves for the exercise of Federal Rule of Civil Procedure 4(c)3,
20 authorized under 28USC§1915, for the Process of Service of this Case, for reason of
21 Plaintiff proceeding In Forma Pauperis (Document 4), to be performed by the United
22 States Marshal Service, by Order of the Court.

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26 [Signature on next page]
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6 Respectfully submitted this 7th day of June 2012.
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13 In Propria Persona (I.F.P.)

14 James Arnett

15 9288 N. Monmouth Court

16 Tucson, Arizona 85742

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